

The Honorable Richard A. Jones

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

*In re Former Employees of Washington
Mutual Bank v. FDIC as Receiver for
Washington Mutual Bank, et al.*

Master File No. C09-0504 RAJ

**NOTICE REGARDING FOURTH
AMENDED COMPLAINT IN CONWAY, et
al. v. FEDERAL DEPOSIT INSURANCE
CORPORATION, AS RECEIVER FOR
WASHINGTON MUTUAL BANK, et al.,
CASE NO. C09-0781**

TO: THE COURT

AND TO: ALL PARTIES AND THEIR ATTORNEYS OF RECORD

Pursuant to FED. R. CIV. P. 15(a)(2), Federal Deposit Insurance Corporation, as Receiver for Washington Mutual Bank (the "Receiver"), and Federal Deposit Insurance Corporation in its corporate capacity ("FDIC Corporate") consent to the filing of plaintiffs' Fourth Amended Complaint in *Conway, et al. v. Federal Deposit Insurance Corporation, as Receiver for Washington Mutual Bank, et al.*, Case No. C09-0781 (the "Fourth Amended Complaint").

The Fourth Amended Complaint solely adds new named plaintiffs to the *Conway*

NOTICE REGARDING FOURTH AMENDED
COMPLAINT IN CASE NO. C09-0781 - 1

DLA Piper LLP (US)
701 Fifth Avenue, Suite 7000
Seattle, WA 98104-7044 • Tel: 206.839.4800

lawsuit (the “New Named Plaintiffs”).¹ The New Named Plaintiffs’ claims arise out of and are based upon employment contracts with the former Washington Mutual Bank that are materially identical to the employment contracts upon which pre-existing plaintiffs in this consolidated lawsuit base their claims. Thus, the parties have stipulated and agreed that the Fourth Amended Complaint does not impact the Receiver’s pending Motion Pursuant To FRCP 12(b)(6) And For Judgment On The Pleadings Pursuant To FRCP 12(c) To Dismiss All Claims Against Defendant Federal Deposit Insurance Corporation, As Receiver For Washington Mutual Bank (Dkt. #26; the “Receiver’s Motion to Dismiss”) or FDIC Corporate’s pending Motion to Dismiss (Dkt. #20; “FDIC Corporate’s Motion to Dismiss”). Plaintiffs agree that the New Named Plaintiffs’ claims in the Fourth Amended Complaint are subject to the arguments for dismissal made in the Receiver’s Motion to Dismiss and in FDIC Corporate’s Motion to Dismiss. Thus, the parties stipulate and agree that the Court should apply the arguments made in the Receiver’s Motion to Dismiss and FDIC Corporate’s Motion to Dismiss with equal force and effect to the allegations made by the New Named Plaintiffs in the Fourth Amended Complaint.

¹ The New Named Plaintiffs subject to this Notice are: Elizabeth Pepper, Ronald J. Woodlock, and Marc K. Malone.

1 Dated this 13th day of November, 2009.

2
3 /s/ Roger Townsend (with permission)

4 Roger Townsend, WSBA No. 25525
5 Daniel Foster Johnson, WSBA No. 27848
6 BRESKIN JOHNSON & TOWNSEND PLLC
7 1111 Third Avenue, Suite 2230
8 Seattle, WA 98101
9 Telephone: 206.652.8660
10 Fax: 206.652.8690
11 E-mail: rtownsend@bjtlegal.com

12 *Attorneys for Plaintiffs*

13
14 /s/ Catherine Borden

15 Stellman Keehnel, WSBA No. 9309
16 Russell B. Wuehler, WSBA No. 37941
17 Catherine R. Borden, WSBA No. 39666
18 DLA PIPER LLP (US)
19 701 Fifth Avenue, Suite 7000
20 Seattle, WA 98104
21 Telephone: 206.839.4800
22 Fax: 206.839.4801
23 E-mail: stellman.keehnel@dlapiper.com
24 russell.wuehler@dlapiper.com
25 catherine.borden@dlapiper.com

26 *Attorneys for Federal Deposit Insurance Corporation,
as Receiver for Washington Mutual Bank*

/s/ Larry Goodman (with permission)

Larry L. Goodman (*limited admission*)
Federal Deposit Insurance Corporation
3501 Fairfax Dr., D-7040
Arlington, VA 22226-3500
Telephone: 703.562.2385
Fax: 703.562.2477
E-mail: lagoodman@fdic.com

*Attorney for Federal Deposit Insurance Corporation in
its Corporate Capacity*

CERTIFICATE OF SERVICE

I hereby certify that on November 13, 2009, I caused to be electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the attorneys of record for the parties.

In addition, I caused the foregoing to be served by U.S. Mail and e-mail on *pro se* plaintiff Michael F. Day at the following addresses:

Michael F. Day
60 Monterey Drive
Tiburon, CA 94920
Michael.forest.day@gmail.com

Dated this 13th day of November, 2009.

/s/ Catherine Borden

Catherine R. Borden

WEST\21830728.2